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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,522	03/26/2004	Lowell A. Citron	12748/2	7524
23838	7590	08/01/2005	EXAMINER	
KENYON & KENYON 1500 K STREET NW SUITE 700 WASHINGTON, DC 20005			LEGESSE, NINI F	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/809,522

Applicant(s)

CITRON ET AL.

Examiner

Nini F. Legesse

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**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4-8, is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 11-15 and 20-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 16-18** are rejected under 35 U.S.C. 102(b) as being anticipated by Lazier (US Patent No. 5,785,603).

Lazier discloses a brace and the brace as shown on Fig. 1 is secured to a garment (see the shirt the person is wearing in Fig. 10). The device is capable of providing resistance to excessive bending of a golfer's back. The loop and hook and loop fasteners on the device are what are considered as means for adjusting the strap. Part of the device that goes around the golfer's torso is what is considered as a single continuous strap having a first and second end and means for joining the ends (see Fig. 1). During normal use and operation of the Lazier's device, the method steps as claimed would inherently be performed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 9, 10 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al. (US Patent No. 5,937,442).

Yamaguchi discloses a device comprising a brace with first and second diagonal strap portions and a garment (14 and see all Figs.). Yamaguchi does not teach for the device to be used in a golf game. However, it would have been obvious for some one who likes to play the game of golf but has shoulder and arm problem to utilize this support garment while playing a golf game in order to provide support to his/her shoulder joints. If one puts on Yamaguchi's device for joint support while playing golf, the method steps as claimed would inherently be performed.

**Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazier. Lazier fails to disclose a buckle. At the time the invention was made, it would have been obvious to use any type of joining means because Applicant has not disclosed that the use of a buckle rather than other connecting means provides an advantage or solves a stated problem. One of ordinary skill in the art would have expected Applicant's

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invention to perform equally well with either the attachment device as taught by Lazier or the claimed buckle because both perform the same function of connecting two ends of an element.

***Allowable Subject Matter***

**Claims 1, 4, 5, 6, 7, and 8** are allowed.

**Claims 11-15 and 20-22** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

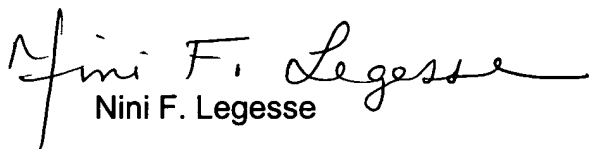
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nini F. Legesse

07/26/05